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SEP 27 1984
ALEXANDER L. STEVAS,
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No. 84-337

IN THE

Supreme Court of the United States

October Term, 1984

IN THE MATTER OF OWEN W. CRUMPACKER

OWEN W. CRUMPACKER,

Appellant,

VS.

INDIANA SUPREME COURT
DISCIPLINARY COMMISSION,

Appellee.

ON APPEAL FROM THE SUPREME COURT OF INDIANA

MOTION TO DISMISS OR AFFIRM

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The Appellee respectfully moves the Court to dismiss the appeal herein or, in the alternative, to affirm the judgment

of the Supreme Court of Indiana on the ground that it is manifest that the questions on which the decision of the cause depends are so unsubstantial as not to need further argument.

OPINIONS BELOW

The order giving rise to Appellant's appeal was made and entered by the Supreme Court of Indiana on April 4, 1984. *In the Matter of Owen W. Crumpacker*, Cause No. 974 S 187. Said order found Appellant in direct criminal contempt of such court for his failure to appear on November 15, 1983, at a duly scheduled hearing before that court to determine the issues set forth under a *Verified Information for Contempt and Petition for Order to Show Cause* filed by the Indiana Supreme Court Disciplinary Commission on July 25, 1983, against the Appellant, alleging that the Appellant had continued to practice law after his disbarment. The Appellant had been disbarred from the practice of law in the State of Indiana by order of the Supreme Court of Indiana entered on November 29, 1978. *In Re Crumpacker*, 269 Ind. 630, 383 N.E.2d 36, *cert. denied*, 444 U.S. 979, 100 S.Ct. 481 (1978). As indicated by the foregoing citation, Appellant herein has previously filed a *Petition For A Writ of Certiorari to the Supreme Court of Indiana* challenging the constitutionality of the order of disbarment. Said Petition was denied by this Court.

JURISDICTION

Appellant has failed to raise any substantial federal questions by his appeal and, therefore, has failed to invoke the jurisdiction of the Supreme Court of the United States. Additionally, Appellant has failed to demonstrate by the record or by argument any right to review.

STATUTES INVOLVED

The Appellant has fairly summarized those provisions of the various constitutional provisions, statutes and court rules that he claims have application to the questions presented.

QUESTIONS PRESENTED

The Appellee will respond below in its Argument to each of the six (6) questions presented by Appellant.

STATEMENT OF THE CASE

Appellant's "Statement of the Case" appears on pp. 20-40, inclusive, of his Jurisdictional Statement. A substantial portion of Appellant's Statement is immaterial and irrelevant to the contempt proceeding which is the subject of this appeal. For example, Appellant attempts to relitigate the order of disbarment entered by the Supreme Court of Indiana on November 29, 1978, continually referring to the Court's order and decision as "the 27-page disciplinary action" and as being "void". The record shows that the Appellant was disbarred by order of the Supreme Court of Indiana and that said order was left undisturbed by this Court. *In re Crumpacker*, 269 Ind. 630, 383 N.E.2d 36, *cert. denied*, 444 U.S. 979 (1978). Also, Appellant attempts to relitigate a previous citation and judgment for his contempt of court that was entered by the Supreme Court of Indiana on February 11, 1982. *In the Matter of Owen W. Crumpacker*, ___ Ind. ___, 431 N.E.2d 91, (appeal dismissed for want of a substantial federal question), 459 U.S. 803 (1982).

A more concise and accurate statement of the case than Appellant's 20-page recitation is as follows: The Appellant, Owen W. Crumpacker, was disbarred by order of the Supreme Court of Indiana on November 29, 1978. Thereafter, on January 23, 1981, the Indiana Supreme Court Disciplinary Commission filed its first *Verified*

Information For Contempt and Petition For Order to Show Cause against Appellant, alleging that Appellant continued to practice law in defiance of said order. After several continuances granted on behalf of Appellant, the matter was fully heard and, on February 11, 1982, the Supreme Court of Indiana entered its opinion and order finding Appellant to be in contempt of said court for his defiance of the 1978 Order of Disbarment. The Court also found Appellant guilty of direct contempt as the result of his conduct during that hearing.The Court then ordered that Appellant be committed to the Department of Correction for imprisonment at the Indiana State Farm at Putnamville, Indiana, for a period of ninety (90) days for each offense, said terms to be served concurrently. Said order appears in Appellant's Appendix at A103-105. Appellant served the full ninety (90) day sentence. Thereafter, on July 25, 1983, the Indiana Supreme Court Disciplinary Commission filed its second *Verified Information For Contempt and Petition For Order to Show Cause* against Appellant, alleging that Appellant was *again* practicing law in defiance of the 1978 Order of Disbarment. A hearing in the matter was set for November 15, 1983, and due notice was served upon Appellant. The notice of said hearing appears in Appellant's Appendix at A50-51. Appellant failed to appear at said hearing and, after hearing evidence as to the effectiveness of the service of notice on Appellant, the Court ordered that a warrant be issued for Appellant's arrest for his failure to appear. Said warrant was issued on November 16, 1983, and appears in Appellant's Appendix at A58-60.

On April 4, 1984, Appellant was apprehended in northern Indiana and brought before the Supreme Court of Indiana to show cause why he should not be found in contempt for his failure to appear. The Court found Appellant in contempt, and sentenced him to thirty (30) days at the Indiana State Farm, Putnamville, Indiana. Said order appears in Appellant's Appendix at A63-65. A

hearing on the issues presented in the *Verified Information* filed on July 25, 1983, is pending and has been continued to be rescheduled.

ARGUMENT

The obvious import of Appellant's argument to this Court, as indicated by his six (6) questions presented for review, is that Appellant is continuing in his attempt to relitigate the Supreme Court of Indiana's order of disbarment issued in 1978. Because Appellant refuses to accept the fact that he is no longer licensed to practice law in the State of Indiana, Appellant continues to subject himself to contempt proceedings before that Court by his defiance of said Order of Disbarment.

Appellant first asserts that the provisions of the IV, V, VI, and XIV Amendments to the Constitution of the United States bar the Indiana Supreme Court from "...instituting criminal proceedings, prosecuting them, and convicting him, a private citizen, of the crime of indirect criminal contempt". This question is not presented by the record below. The order that is the subject of this appeal was entered as the result of Appellant's failure to show cause why he should not be found in contempt for his failure to appear at the November 15, 1983, hearing. The *Order Re-Setting Show Cause Hearing* appears in Appellant's Appendix at A50-51. Said hearing was set to determine the issues set forth in the *Verified Information for Contempt and Petition for Order to Show Cause* filed on July 25, 1983, by the Indiana Supreme Court Disciplinary Commission. The record below demonstrates that the Supreme Court of Indiana did not institute or prosecute said contempt proceedings. Appellant fails to raise a substantial federal question by his first question presented for review.

Appellant next asserts, by Question 2, that the procedures employed by the Indiana Supreme Court in

attempting to enforce a prior, valid order are in violation of the Due Process and Equal Protection guarantees of the V and XIV Amendments to the Constitution of the United States. This question is not presented by the record below. The record below demonstrates that Appellant was duly notified of the hearing scheduled to be held on November 15, 1983, and was notified of the purpose of said hearing. The purpose of the hearing was to determine the issues raised in the Indiana Supreme Court Disciplinary Commission's *Verified Information for Contempt and Petition for Order to Show Cause* filed on July 25, 1983. Appellant failed to appear and the Court ordered that a warrant be issued for Appellant's arrest. The warrant was issued on November 16, 1983. Said Order and Warrant appear in Appellant's Appendix at A58-62. Appellant's argument in his Jurisdictional Statement fails to demonstrate any constitutional infirmities in the proceedings below. The Appellant has failed to raise a substantial federal question by his second question presented for review.

Appellant next raises the issue, by Question 3, of whether the Indiana Supreme Court has jurisdiction, "under the Constitution of the United States" and the Constitution and various statutes of the State of Indiana, to "...try a citizen in Indianapolis, Marion County, Indiana, for crimes allegedly committed in Hammond, Lake County, Indiana." This question is not presented by the record below. The arrest and contempt orders issued by the Indiana Supreme Court on November 16, 1983, and April 4, 1984, respectively, represent the Court's efforts to enforce a prior valid order of disbarment duly entered by the Court on November 29, 1978. The proposition that the Supreme Court of Indiana has the power to enforce its orders within the boundaries of the State of Indiana is so plain as to not require citation. The Appellant has failed to raise a substantial federal question by this third question presented for review.

Appellant's 4th and 5th questions have previously been presented to this Court in Appellant's Jurisdictional Statement No. 82-5046, *In the Matter of Owen W. Crumpacker*, ____ Ind. ____ 481, N.E.2d 91, (appeal denied for want of a substantial federal question), 459 U.S. 803 (1982), and are moot.

Finally, in question 6, Appellant contends that he has been relentlessly prosecuted over the past twelve (12) years, and that such prosecution violates the Cruel and Unusual Punishment prohibition of the VIII Amendment to the Constitution of the United States. This question is not presented by the record below. The record below demonstrates that any and all actions brought against Appellant by Appellee, Indiana Supreme Court Disciplinary Commission, have been the result of Appellant's insouciance toward the standards of professional responsibility imposed upon all attorneys in the State of Indiana. Further, Appellant's defiance of the order of disbarment, properly ordered by the Supreme Court of Indiana, caused the subsequent actions against Appellant for contempt. Appellant has failed to raise a substantial federal question by his sixth question presented for review.

CONCLUSION

Wherefore, Appellee respectfully submits that the questions upon which this cause depends are so unsubstantial as not to require further argument, and Appellee respectfully moves the Court to dismiss this appeal, or, in the alternative, that the judgment and order of the Supreme Court of Indiana dated April 4, 1984, should be affirmed.

Respectfully submitted,

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